

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JOSE GARCIA-SANTOS,

Petitioner,

v.

ORDER
07-CV-699A

DIVISION OF PAROLE,
MICHAEL KELLY, F.P.O.,

Respondents.

The above-referenced case was referred to Magistrate Judge Jeremiah J. McCarthy, pursuant to 28 U.S.C. § 636(b)(1)(B). On August 6, 2008, Magistrate Judge McCarthy filed a Report and Recommendation, recommending that respondents' motion to dismiss the petition as moot be granted and their motion to dismiss the petition as unexhausted be denied.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, respondents' motion to dismiss the petition as moot is granted and their motion to dismiss the petition as unexhausted is denied.

The Clerk of Court shall take all steps necessary to close the case.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: August 26, 2008